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Court of Appeals
Division II
State of Washington
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION II

SUSAN KAY MCCLAIN,

Respondent,

vs.

DAVID J. STEELE,

Appellant,

Case No.: 50671-8-II

RESPONDENTS OPENING BRIEF AND
CERTIFICATE OF SERVICE

12 PAGES TOTAL INCLUDING COVER SHEET

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CERTIFICATE OF SERVICE

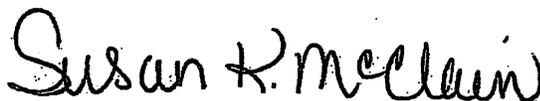
I certify that on the 23rd day of January 2019, I caused a true and correct copy of the
RESPONDENTS OPENING BRIEF to be served on the appellant in the manner indicated below:

Appellant Attorney Via U.S. Mail

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Susan McClain

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APPELLATE BRIEFING SUSAN MCCLAIN

My name is Susan K. McClain, formerly married to David J. Steele. Representing myself.

Mr. Steele has hired a few different attorneys and had me in and out of Superior court in hopes to justify his actions. Again, I must represent myself because I cannot afford an attorney, but I refuse to give up.

It was clear to the everyone, even the court that David made the choice to leave the country, abandoning his family to live his dream, traveling the world.

In October 2010 Mr. Steele was discharged from the UNITED STATES ARMY. We had been having some marital issues and both agreed that maybe moving away would bring us closer.

Beginning of October 2010, we relocated to Savannah Georgia. David, myself and 7 kids. Justin 18, Tyler 13, Chris 11, Kaitlynn 10, Alex 6, David 2 and Bella an infant.

My 18 yr old son drove the family Tahoe, I drove a 23 ft Penske truck and David drove a Penske truck. After arriving in Georgia, we spent a few days searching for a house with no luck. We decided to put our belongings into storage, so David could return to Washington to get the last Penske load and tow the BMW car.

The kids and I stayed with a friend of mine that was in the area. However, it had to be very temporary as

1 kids needed to get back into school and life was not going to be easy adding 8-9 more people to my
2 friends' home.

3
4 David had been gone for several days. So, I decided to call him to see how close he was. As our things
5 were in storage and I had found a house to move into. I do recall talking to him a couple of times
6 because he said there was money in our joint account to put the deposit down and pay first month's rent.

7 It had been a couple weeks and David still had not arrived in Georgia. I eventually had to
8 start moving into our home. It was extremely difficult considering I had 7 kids which two were infants.
9 Within a couple of weeks, we were all moved in and settled.

10 Throughout this entire time, I had called David several times. He had assured me he was
11 on his way. He did tell me he had stopped at his Uncle Jan's house in California and was going to spend
12 a couple days with him. Also, the possibility of stopping by some friends for a short visit. I tried calling
13 him again over this period only to go straight to voicemail.

14 I was disgusted with him as he knew the kids and I were struggling living out of bags,
15 babies without their beds and everyday living necessities.

16
17 I had reached out to David's brother Michael asking him if he could try to contact David as I had been
18 trying for several days with no answer. Michael finally got a hold of him VIA email and informed me that
19 David had decided to go to India. I was shocked that out of nowhere David had decided it was time for
20 him to take a vacation. He left the country. I was appalled. I asked Michael what David did with the rest
21 of our belongings. Apparently, he decided to unload the Penske truck into storage and leave the BMW in
22 storage as well. Left me speechless!!

23 I spent many days struggling. Wondering when David would be back and trying to figure
24 out how the kids and I would survive. As it was there was no more money in the bank. The only money I
25 had was the child support that I received for my older kids from my previous marriage. That amount
26 being \$1,200. monthly.

27 Scared and unsure what to do was a terrible feeling. I spent many days in lines at food
28 banks and the salvation Army wondering how I could possibly pay the rent, utilities, car payment,

1 insurance, feed my 7 children and provide for the two babies. Baby David just turned 2 in October and
2 Bella wasn't even a year yet. Mine and the children's lives had become an everyday challenge while
3 David was out "globetrotting" and traveling the world.
4

5 Over the years I have wondered how can he afford all these attorneys but not be able to
6 pay child support? He's constantly dragging me into court to appeal every order the judges give. Still
7 coming out with the same answer.
8

9 Can David not face the fact that I did not "STEAL" money from OUR joint account? It was money in OUR
10 "joint" account.
11

12 It really confused me that he'd have money to continue his world travel but no money to bring the rest of
13 our belongings and car to Georgia or take care of his family.
14

15 David's brother later informed me the items in storage were eventually auctioned off. I tried calling the
16 storage place before that would happen many times, but they refused to help me. I had no access to the
17 storage he had left it all at in California.
18

19 Filing taxes was something I did EVERY year with a Power of Attorney that he gave me. I have enclosed
20 a copy of the POA and proof of when the tax return was filed which was January 28, 2011. The POA was
21 valid until November of 2011. I did not file for a Divorce from him until February and it was not final until
22 late July 2011.
23

24 I do have a question for David. Where did the funds go that the Military gave us for the
25 final move and to start our next chapter? The military pays you to relocate. They pay a good amount for
26 each family member per mile, food, lodging and so on.
27
28

1 In my opinion, he has no right to complain that I took money out of the account in October
2 for the deposit and rent so we could start moving into a home. The joint account was access for both of
3 us.

4
5 Every time we've gone to Superior court, all David ever complained about was "HIS"
6 money. Not his wife and 7 children. Never asking about his children, never trying to get visitation or even
7 caring about his children. Always the money and how he could pay the least amount possible in child
8 support. Not caring about the children's needs.

9
10 David does not pay child support as ordered. He pays sporadically when he does and
11 NEVER near the amount ordered. I struggle every day to provide for these children. Still standing in
12 lines at food banks to get by.

13
14 Currently David owes more than \$126,000.00 One hundred twenty-six THOUSAND dollars in back child
15 support. These kids deserve to be taken care of. Alex being in high school now is very involved in all
16 sports, David and Bella would like to play sports as well. It's expensive and David makes little to no effort
17 to help.

18
19
20 At the time of our divorce, I was providing for our children with \$1200. a month child support from my
21 former husband for the older children. Which now all those children are adults. For the record, it wasn't
22 until 2014 that I started receiving disability. I am now receiving \$750. a month in disability.

23
24 It has been 8 years since David abandoned my children and I in Georgia, leaving us
25 stranded 3,000 miles from home. With no change in his concern for the children's needs.

1 While in Georgia, two months I struggled to survive with the kids and I living only on just
2 that \$1200.

3 Standing in lines at food banks, churches and The Salvation Army.

4
5 David left us to struggle while he claimed to be broke but was able to travel all over the world. He often
6 complains of how hard his life is. I don't think he understood the struggle at the time of taking care of 7
7 kids with the thought of the unknown constantly on my mind. Now with raising his 3 children and still no
8 consistent support and NEVER what the court has ordered.

9 How dare David accuse me of taking all the money out of the bank and leave him stuck in
10 California. That is very untrue. If that were the case, why did he leave the country? How did he round up
11 the money to go to India but not come to Georgia with his wife and kids?

12 In late November when I received a text from the bank that money had been deposited
13 into OUR joint account,
14 I called the bank and inquired about it. I was informed that David had already started withdrawing money
15 in India in large amounts. That concerned me. I felt David was out of his mind as it was to leave the kids
16 and I pretty much stranded and homeless for his selfishness.

17 I had to figure out what was the best thing to do for me and my children. I talked to my parents and
18 decided because David was so unstable and not knowing if or when he'd ever return and what his actions
19 might be, the kids and I should move back to our home in Washington state to be with family.

20 As I was speaking to the bank representative, I was informed I could transfer some of the
21 funds to my other checking account. I felt this was a good idea since David had already been
22 withdrawing large amounts.

23 This was extremely tough. Kids and I had just settled in a new home that David had
24 approved of. At the time though \$30,000 was not going to last long with our large family, all our bills,
25 finances and living expenses.

26
27 I called several moving companies Mayflower agreed to move us last minute under my
28 circumstances, BUT kids and I had to pack everything ourselves and they'd pick it up. At a cost of over

1 \$12,000 to transport it to Washington state. Some items I had to have with me because the babies
2 needed items like crib, playpen, stroller, David was on a breathing machine and items Mayflower couldn't
3 move. Leaving me to buy a utility trailer to tow with those items and necessities. The utility trailer was
4 \$1,631.

5
6 We left Savannah the beginning of December. Very heartbroken, stressed and unsure of the future. For
7 the first time in my years of being a mother I felt like such a failure. I had to send the older kids to spend
8 Christmas in D.C. with their dad. My heart was broken.

9
10 I then had to drive from Savannah Georgia to Washington state alone with 3 small children, towing a
11 utility trailer. During the month of December while the weather worked against us. My struggle was real
12 while David was still "Globetrotting."

13
14 I feel that moving home was the best decision I could've made for my children and me. David had literally
15 dumped us in Georgia and didn't return until his funds were low. He failed to realize that a home and
16 stability for our children were a priority.

17
18 Raising OUR three children with little to no financial support or compassion from David has not been
19 easy. All three children suffer from ADHD, Alex has behavioral problems linked to his dads' actions and
20 sees a counselor, David has had tubes in his ears three times and suffers from hearing issues and Bella
21 had a horrible fall in February of 2016 that nearly killed her. On top of that Bella was diagnosed with
22 Chiari malformation at a year old because of developmental delays. Two tumors, one on each side of her
23 brain stem. Since being diagnosed her vision has gotten bad and she now wears bifocals.

24 Her fall caused her to lose her right kidney, part of her intestines, gall bladder and
25 appendix. On top of internal bleeding and needing several blood transfusions. I was unsure my baby was
26 going to survive, let alone be normal. To this day she still struggles with the constant bowel blockages
27 and discomfort from that fall. She will live with a lifetime of struggles.

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My health is not so good either. Since 2011 I have been diagnosed with several permanently disabling health issues. I live with severe hypoglycemia every day, Epilepsy, diabetes, severe migraines that I receive multiple injections in my head every few months, Neuropathy, fibromyalgia and many other health issues. Every day my health is a struggle. Leaving me permanently disabled. I will never be able to work again.

I was approved for Social security disability in 2014. Giving me just over \$700 a month. Now at \$750 a month.

I've enclosed a letter from my primary doctor (Dr. Friesen) who sees me for some of my issues. I also have an Endocrinologist, Gastroenterologist and a neurologist that care for me. Battling all these illnesses but I still get up every day and take care of OUR children. David only worries about David.

After the kids and I settled in Washington David did contact me when he was in the area wanting to meet up to get his moms cremated ashes. I agreed if it was a public place.

David had often threatened me that he'd take our children. When he asked if he could see the kids, I would only agree to meet him in a public place for a short visit because I knew what he was capable of. He had shown up at

Chuck E Cheeses in March and caused a huge scene. I know the date to be March and not February 2011, because we were celebrating my niece's birthday.

David was very angry. He was upset because it wasn't just the kids and me. It was my extended family and friends as we were there for a party. I refused to meet him somewhere where I'd feel unsafe. As it was, he made a false report about my oldest son, having him arrested but later released from jail. It was a nightmare for the 5-10 minutes he had spent tormenting myself and children.

I had intended to have him served the divorce decree at that time, but he ran out after starting

1 problems. Including threatening me that he would steal the children.

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3
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5 As far as the maintenance goes, there was no specific time on how long I should receive it. I willingly
6 dismissed it in a declaration. Child support was my main concern. Again, I chose to terminate it. I did it in
7 hopes of encouraging him to pay his child support.

8 I mailed David a copy of the Divorce decree to his Uncle Jan's house in California. I also
9 mailed it to several other addresses INCLUDING the Tacoma address 1944 Pacific Ave that I am being
10 accused of not sending it to. See the enclosed copies of receipts proving my attempt to serve him
11 anywhere I could.

12
13 When I filed for our divorce in 2011, I had gone to speak to a facilitator. That facilitator
14 figure David's child support on the fact he had just served in the military, his income and what he was
15 capable of doing. I did not have any say in his imputed income. The facilitator was fully aware of David
16 being out of the military and supposedly seeking work.

17
18 As for my income, Again, all I had been getting was child support for my older children from my first
19 marriage. That is NOT my income. That is to take care of those children.

20
21 David receiving 70% disability from the VA, does not automatically imply that he is "disabled" and unable
22 to work in the real world. It's the military's way of repaying for damages endured while in the service. Skin
23 cancer being removed left scars but did not disable him.

24 For the record, David NEVER served in a war or hostile environment. He served one tour
25 in Korea which the kids and I went with him. He spent most of his time grounded from flight because of
26 comments he made about crashing his helicopter into the ground because he disliked his instructor.
27 He has tried to get Disability and has been denied.

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I did not receive social security disability until 2014. I've not worked since 2006. The court did impute my income, which was MORE than my social security would've been.

When I started receiving social security, it was \$700 a month. Which again, is less than the imputed.

In March of 2017 David submitted a financial declaration that proves he has and can work. Which I have also enclosed with my response.

David still refuses to pay child support as ordered. Even currently he pays when he feels like it and NEVER paying the court ordered amount.

Recently I received a message from David on Facebook (see attached) asking me to help him get out of Mexico. I cannot do that for him. As much as I'd like to have regular support. That is between him and the Division of Child support. As it stands, he is not dependable on making the court ordered payments and he has made mine and my children's struggles very hard for more than 8 yrs.

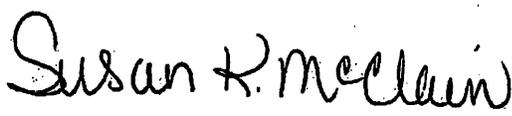
I hope that Supreme Court will see that we have been to Superior court many times and David somehow comes up with the funds for yet another attorney to fight this battle. He caused this battle by leaving the country first for a vacation to travel the world rather than to take care of his wife and children. Then knowing that there was a court battle going on and that he would eventually lose his passport he continued to travel and not get work which left him stuck on that vacation with his new wife in Mexico.

Over the past 8 years I have done everything to care for all my children. David knows the PO box that he can send cards, letters or gifts to yet never has. He has made the decision to be no part of these children's lives.

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In September of 2016 Alex went before a judge and pleaded his case and why it was important to change his last name. His request was honored, and all three children's last names were changed. Alex is the only child of the three that remembers David. For a longtime he was crushed over his dad not returning. Life has since gone on and we have all come to terms with the fact that David made that choice.

I hope that the court can find that David is quite capable of sending child support as he can continue to hire attorneys knowing that every parent has an obligation to support their kids in some way.



Susan McClain

12-10-18

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